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August 12, 2016

*Via ECF*

Honorable Lashawn Dearcy Hall  
United States District Judge  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, NY 11201

**Re: Portelos v. NYCDOE, 12 CV 3141 (LDH)**

Dear Judge Dearcy-Hall:

I am attorney for Plaintiff in the above-referenced action. We write to the Court regarding the availability of witnesses for this case. Since April 2016, the Defendants counsel listed eight witnesses that they intended to have testify in this case. Plaintiff reserved his right to call these witnesses on his case. Recently, when Defendants' counsel removed Richard Candia from their list, Plaintiff requested and was granted permission to subpoena this witness.

In just the last 24 hours, one business day before the trial is set to start, the Defendants indicated that they will now only be producing Defendants Linda Hill and Erminia Claudio. Plaintiff would like to call four of the Defendants' eight witnesses in to testify. If they are now unavailable, Plaintiff would like to introduce their deposition testimony.

At our last conference, we requested that Defendants inform us if any of the witnesses they intend to call are unavailable. We were not informed, although clearly Defendants knew, that one witness, Richard Candia, has plans to fly out of town this weekend while another, Andrew Gordon, resides in Syracuse and is unavailable to testify.

We have also served two other of Defendants' witnesses, Katherine Rodi and Susanne Abramowitz.

Plaintiff did not anticipate using any deposition testimony other than for impeachment purposes. However, as we mentioned in our joint pre-trial order “If a witness later becomes unavailable pursuant to Fed. R. Civ. P. 32, defendants request the ability to designate specific portions of testimony.”

For all of the above-mentioned reasons, and the precedent above, Plaintiff respectfully requests that Your Honor’s permission of the Court to call the witnesses indicated above or, in the alternative, should they be unavailable, Plaintiff requests permission to designate portions of their testimony and deposition at trial.

Thank you for your consideration.

Very truly yours,

s/

Bryan D. Glass, Esq.